

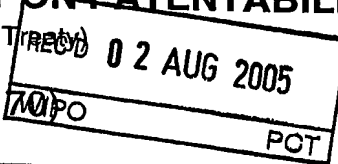
# PATENT COOPERATION TREATY


## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70.16)



Applicant's or agent's file reference 200312131-2 WO		<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/EP2004/006899		International filing date (day/month/year) 24.06.2004		Priority date (day/month/year) 27.06.2003
International Patent Classification (IPC) or national classification and IPC H04L29/08				
Applicant HEWLETT-PACKARD DEVELOPMENT COMPANY, L.L.P. et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand  18.01.2005		Date of completion of this report  02.08.2005		
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer  Gavrilu, B-A  Telephone No. +31 70 340-		



**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/EP2004/006899

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
  - ☐ publication of the international application (under Rule 12.4)
  - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

**Description, Pages**

1-11 as originally filed

**Claims, Numbers**

1-21 as originally filed

**Drawings, Sheets**

1/3-3/3 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	2,4,7,9,12,14,17,19
	No: Claims	1,3,5,6,8,10,11,13,15,16,18,20,21
Inventive step (IS)	Yes: Claims	
	No: Claims	1-21
Industrial applicability (IA)	Yes: Claims	1-21
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

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**Box No. VII Certain defects in the international application**

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The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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**Box No. VIII Certain observations on the international application**

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The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

**see separate sheet**

**Re Item V.**

1. The following documents are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: WO 03 003694 A (VERSADA NETWORKS INC) 9 January 2003 (2003-01-09)

D2: WO 01 45343 A (NORTEL NETWORKS LTD ;PARSONS ERIC W (CA); ARMSTRONG STEVEN M (CA);) 21 June 2001 (2001-06-21)

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 3, 5, 6, 8, 10, 11, 13, 15, 16, 18, 20 and 21 is not new in the sense of Article 33(2) PCT and because the subject-matter of claims 2, 4, 7, 9, 12, 14, 17, 19 does not involve an inventive step (Article 33(3) PCT).

**1. INDEPENDENT CLAIM 1**

The lack of clarity mentioned in Item VIII notwithstanding, document D1 discloses in terms of claim 1 (the references in parenthesis applying to this document):

Apparatus, for use with a computing device, for selecting a presence status from a number of available presence statuses comprising (paragraph [008], [023] and [026]):

a data store for storing at least one predeterminable rule (paragraph [066] and claim 46);

an activity monitor for monitoring an activity through the device (paragraphs [023] and [028]);

and logic for determining the presence status based in part on the at least one rule and in part on the monitored activity (paragraph [008], [023] and [026]).

The subject-matter of claim 1 is therefore not new (Article 33(2) PCT).

2. Independent method claim 11 corresponds to apparatus claim 1 in terms of method steps. Consequently, the subject-matter of claim 11 is also not new in the sense of Article 33(2) PCT.

**3. INDEPENDENT CLAIM 21:**

The lack of clarity mentioned in Item VIII notwithstanding, the document D2

discloses in terms of claim 21 (the references in parentheses applying to this document):

A presence broking system for managing presence information received from two or more devices associated with a single user comprising ( page 12, line 18 - page 13, line 10):

a storage device for storing at least one predeterminable rule (page 13, line 11 - page 14, line 17 and figure 1); and

means for publishing a presence status to a presence server based on the received presence information and the at least one predeterminable rule ( page 13, line 11 - page 17, line 12 and page 39, lines 4-16).

The subject-matter of claim 21 is therefore not new (Article 54(1) and (2) EPC).

4. Dependent claims 2-10 and 12-20 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT), the reasons being as follows:

1. The additional features of claims 3, 5-6, 8, 10, 13, 15-16, 18 and 20 are already known from the document D1:

- Claims 3 and 13 see paragraphs [028], [036] and [079],
- Claims 5 and 15 see paragraphs [028], [062] and figure 2,
- Claims 6 and 16 see paragraphs [026], [069] and figure 11,
- Claims 8 and 18 see paragraph [029],
- Claims 10 and 20 see paragraphs [042]-[052] and figures 2 and 3.

The subject-matter of claims 3, 5-6, 8, 10, 13, 15-16, 18 and 20 is therefore not new (Article 33(2) PCT).

2. The additional features of claims 2, 4, 7, 9, 12, 14, 17 and 19 are a matter of normal design procedure for a man skilled in the art of presence information in data communication networks. Therefore the subject-matter of claims 2, 4, 7, 9, 12, 14, 17 and 19 does not involve an inventive step (Article 33(3) PCT).

**Re Item VII.**

1. Documents D1 and D2 are not acknowledged in the opening part of the description, Rule 5.1 (a)(ii) PCT.
2. The two-part form, Rule 6.3 (b) PCT, is not used in the independent claims with a pre-characterising part that correctly reflects the closest prior-art (D1 and D2).
3. Reference signs are not included in all claims, Rule 6.2 (b) PCT.

**Re Item VIII.**

1. The application does not meet the requirements of Article 6 PCT, because claims 1, 11 and 21 are not clear or not concise.

1. Claim 1 is not clear (Article 6 PCT) in that said claim attempts to define one entity, the "**apparatus**", in terms of a second entity, the "**computing device**", whereby it is not clear how the "**apparatus**" and the "**computing device**" defined in claim 1 relate to each other, whether the two above mentioned entities are connected, or whether one entity is part of the other entity.

It seems however that it would have been possible to recast claim 1 to define the "**apparatus**" in terms of its technical features without referring to the "**computing device**".

2. The term "**presence**", used in claims 1, 11 and 21 is vague and unclear and leaves the reader in doubt as to the meaning of the technical feature to which it refers, thereby rendering the definition of the subject-matter of said claims unclear, Article 6 PCT. More precisely it is not clear whether said term refers to a user presence, or to the presence of an application, or the presence of the device in a network .

If claims 1, 11 and 21 had been drafted including the following definition used in the description on page 2, lines 1-3: "**presence which allows users to indicate their ability or willingness to partake in communications**", said claims would have fulfilled the requirements of clarity.

3. The term "**through**" used in claim 1 renders the definition of the subject-matter of said claim unclear (Article 6 PCT), in that it is not clear how the monitored activity relates to the device.
4. Although claims 1 and 21 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult, if not impossible, to determine what are the technical features essential to the definition of the invention as required by Article 6 PCT taken in combination with Rule 6.3(b) PCT.